

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0624P

Withholding Tax

For Tax Periods May, July, August, September 1997

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ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1; 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

II. Tax Administration – Interest

Authority: IC 6-8.1-10-1

Taxpayer protests the imposition of interest.

STATEMENT OF FACTS

Taxpayer is an Indiana corporation incorporated in 1997 with approximately twelve employees. A payroll tax reporting company handled the taxpayer's payroll for many years for another company the taxpayer owned. Taxpayer was under the impression that the payroll tax reporting company made payments as usual and received notice from the preparers that electronic payment fees would be increased as of 7/1/97. Taxpayer was not officially notified that the payroll tax reporting company was not remitting tax due. In addition, the bookkeeper was dying of leukemia during the periods assessed and finally did die on December 28, 1997. Taxpayer requests that penalty and interest be abated as it relied on a payroll service; the bookkeeper became terminally ill and was under medication which affected his ability to comprehend and the taxpayer immediately filed returns and remitted tax for the periods in question.

I. Tax Administration – Penalty

Taxpayer in its written protest has established that no negligence was present and it immediately made payment for the missing months after an accountant was hired after the death of the bookkeeper.

FINDING

Taxpayer's protest is sustained.

II. Tax Administration - Interest

DISCUSSION

Taxpayer protests the interest assessed.

Interest, under IC 6.8-1-10-1 may not be waived.

FINDING

The taxpayer's protest is denied. The department has no authority to waive interest.

CONCLUSION

Taxpayer's protest is sustained for issue one and denied for issue two.